

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3506 of 2012

and

M.P.No.1 of 2012

Branch Office,
Maruthi Complex,
Salem - 636 004.

.. Appellant/3rd Respondent

Vs.

1.G.Ravichandran

..1st Respondent/Petitioner

2.Tamil Nadu State Transport
Corporation Limited,
Bharathipuram,
Dharmapuri - 5.

..2nd Respondent/1st Respondent

Palanisamy (Deceased)

(Deceased/2nd Respondent)

3.Muthulakshmi

..3rd Respondent/4th Respondent

4.Sasikala

..4th Respondent/5th Respondent

5.Jeevitha

..5th Respondent/6th Respondent

(Respondents 3 to 5 - impleaded
as L.Rs of the Palanisamy (deceased)
in I.A.No.1426 of 2005 dated 03.03.2006)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 07.02.2007 made in M.C.O.P.No.598 of 2003 on the file of the Motor Accident Claims Tribunal, Krishnagiri.

For Appellant : Mr.S.Vadivel
For R1 : Mr.T.Anandha Sekar
For R2 : Mr.D.Venkatachalam
For R3 to R5 : No Appearance

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/Insurance Company as against the award of a sum of Rs.53,500/- to the 1st respondent/claimant for the injuries sustained by him in a motor vehicle accident.

2.The case in brief is as follows:

On 22.07.1989 at about 07.30 a.m, the 1st respondent/claimant was travelling in Annai Sathiya Bus bearing Registration No.TCB-8047 from Salem to Dharmapuri. When the bus was nearing Thopparagampatty Bridge, a lorry bearing Registration No.TAL-4057 insured with the appellant insurance company, came from the opposite direction in a rash and negligent manner and dashed against the bus. Due to the said impact, the 1st respondent sustained severe injuries, for which, he filed a claim petition claiming a sum of Rs.2,00,000/- as compensation. The Tribunal, considering the pleadings, oral and documentary evidence, awarded a compensation of Rs.53,500/- with interest at 7.5% p.a. from the date of petition. Aggrieved over the same, the appellant/Insurance Company has come out with the present appeal.

3.The learned counsel for the appellant/Insurance Company submitted that the Tribunal has erred in holding that the driver of the lorry was rash and negligent in driving the lorry and was responsible for the accident. He further submitted that the compensation of Rs.53,500/- awarded by the Tribunal is excessive and exorbitant and also disproportionate to the injuries sustained by the 1st respondent/claimant.

4.Per contra, the learned counsel appearing for the contesting respondents submitted that the Tribunal, after considering the oral and documentary evidence in a proper perspective, has rightly held that the accident had occurred due to the rash and negligent driving on the part of the driver of the lorry and awarded the just compensation and hence, the same warrant no interference at the hands of this Court.

5.Heard both sides and perused the records.

6.The occurrence has not been disputed on the side of the appellant. What was disputed is the manner in which the accident had occurred. According to the appellant insurance company, the driver of the bus was responsible for the accident. But no document was marked to substantiate the said stand by them. The Tribunal has placed reliance on Ex.P1 -FIR and the evidence of P.W1/claimant and R.W.1/conductor of the bus and rightly concluded that the accident had occurred due to the negligent act on the part of the driver of the lorry, which finding this Court is not inclined to interfere.

7.With regard to quantum of compensation, the Tribunal has awarded Rs.35,000/- towards permanent disability, considering the evidence of P.W.2/doctor and Ex.P4 disability certificate and also taking note of the nature of injuries sustained by the first respondent/claimant. The Tribunal has also awarded

Rs.5,000/- towards pain and suffering, Rs.7,000/- towards loss of earning, Rs.6,000/- towards loss of income, Rs.200/- towards transportation and Rs.300/- towards extra nourishment. This Court is of the view that the quantum so determined is based on the materials and evidence adduced by the parties and having regard to the facts and circumstances of the case and hence, the same need not be interfered.

8.Hence, this Civil Miscellaneous Appeal is dismissed, thereby confirming the judgement and decree passed by the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant/Insurance Company is directed to deposit the award amount along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the same to the savings bank account of the 1st respondent/claimant through RTGS, within a period of one week thereafter.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

gb

To

1.The Judge,
Motor Accident Claims Tribunal,
Krishnagiri.

2.The Section Officer,
V.R.Section,
High Court,
Madras.

+1 CC to Mr.D.Venkatachalam, Advocate sr 66616.

+1 CC to Mr.S.Vadivel, Advocate sr 66623.

+1 CC to Mr.T.Anandha Sekar, Advocate sr 66617.

C.M.A.No.3506 of 2012
and
M.P.No.1 of 2012

LN(CO)
SP(03/09/2020)